

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

No. CR 19-00377 WHA

v.

ANTHONY SCOTT LEVANDOWSKI,

Defendant.

**FINAL SCHEDULING
ORDER**

After several hearings, and with the concurrence of counsel, this order sets the following case schedule:

Any superseding indictment shall be filed by **JANUARY 22, 2020**.

All motions to dismiss or to sever based on the face of the operative indictment or any other motion based on the face of the operative indictment, or motions to transfer, must be filed by **JANUARY 23, 2020**.

All Rule 8 motions, motions for bills of particulars, or motions for discovery of jury-composition records must be filed by **JANUARY 23, 2020**.

By **JANUARY 23, 2020**, all materials required under Rule 16 to be produced by the government must be produced to any defendant that has made a written Rule 16 request. All such Rule 16 materials acquired thereafter by the government or any of its agents subject to Rule 16 must be produced within **FOURTEEN CALENDAR DAYS** of receipt or acquisition by government counsel or its agent (but, again, only to a defendant who has made a timely written request). Failure to so produce will preclude use of any such evidence by the government (other than for impeachment or rebuttal). As to any such Rule 16 material produced after said date,

1 the burden shall be on the government to demonstrate compliance with the fourteen-day
2 exception.

3 Any motion by the government to keep secret the names and identities of civilian
4 witnesses, who otherwise shall be disclosed as set forth hereafter, must be filed by **JANUARY 23,**
5 **2020.** Any such motion must be specific as to the risks and reasons by individual witness and
6 may be under seal and *ex parte*. Abbreviated memoranda and declarations must be served on
7 defense counsel allowing them to at least know the themes advanced under seal and *ex parte*.
8 The submissions must address whether a protective order restricting use of the information
9 would suffice. Any of the aforementioned Rule 16 materials that may require sealing must still
10 be produced by the deadline with the names and identities of the civilians in questions redacted.

11 All motions to suppress must be filed by **MARCH 10, 2020.** All motions alleging any
12 defect in instituting the prosecution, motions for disclosure of informants, or motions alleging
13 selective prosecution must be filed by **MARCH 10, 2020.** All motions to sever not based
14 principally on the face of the indictment must be filed by **JUNE 2, 2020.**

15 By **JULY 8, 2020,** all government expert reports and summaries shall be produced to
16 defense counsel.

17 By **SEPTEMBER 8, 2020,** the government must provide a trial exhibit list and a final list
18 of witnesses for its case-in-chief, including civilian witnesses except to the extent a prior court
19 order has allowed a postponement of such disclosure.

20 By **SEPTEMBER 8, 2020,** the government shall have produced all *Brady-Giglio* material
21 unless allowed by prior order to postpone specific items for reasons of civilian witness security
22 or for other good cause. To be clear, this deadline is the *last* day to produce such material.
23 Under *Brady*, disclosure of exculpatory evidence “must be made at a time when the disclosure
24 would be of value to the accused.” *United States v. Davenport*, 753 F.2d 1460, 1462 (9th Cir.
25 1985). The government should therefore be mindful that these materials should be produced
26 earlier if the circumstances and fairness so require.

27 By **SEPTEMBER 8, 2020,** all Rule 16 *defense* reciprocal disclosures, including expert
28 reports and summaries, must be produced to the government and all Rule 12.1 and 12.2 defense

1 notices must be given, if any. All rebuttal expert reports and summaries by the government
 2 shall be due **SEVEN CALENDAR DAYS** before the final pretrial conference. Any mental
 3 examinations shall occur on a schedule to be set by motion.

4 By **SEPTEMBER 29, 2020**, all translations or transcripts of conversations or statements to
 5 be shown to the jury must be provided to defendants and any motions directed to their accuracy
 6 shall be heard at the final pretrial conference.

7 All *Daubert* or other motions directed at government reports must be filed by
 8 **SEPTEMBER 29, 2020**.

9 On **DECEMBER 16, 2020**, the final pretrial conference shall be held at **2:00 P.M.** All
 10 motions for the final pretrial conference shall be due **FOURTEEN CALENDAR DAYS** before the
 11 conference with oppositions due seven calendar days before the conference.

12 For the final pretrial conference, defendants and the government must file any motions
 13 *in limine* as well as any of the following:

- 14
- 15 1. Motions to exclude co-conspirator statements.
- 16 2. Government *Daubert* motions or other motions directed at defense
- 17 experts.
- 18 3. Motions to exclude/include Rule 404(b) acts; to tee this up, the
- 19 government must disclose all proposed Rule 404(b) material
- 20 **35 CALENDAR DAYS** before the final pretrial conference, and any motion to
- 21 exclude must be filed fourteen calendar days before the final pretrial
- 22 conference.
- 23 4. Motions directed at the accuracy of transcripts of recordings to be shown
- 24 to the jury.
- 25

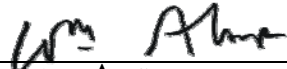
26 On **JANUARY 25, 2021**, trial shall commence at **7:30 A.M.** with jury selection.

27 Unless otherwise indicated, all motions filed in accordance with this scheduling order
 28

1 will be heard fourteen days after the motion is filed. Unless it covers all defendants, no Rule
2 11(c)(1)(C) plea agreement will be accepted within two months of the final pretrial conference.
3 Open pleas, however, will be allowed at any time.

4
5 **IT IS SO ORDERED.**

6
7 Dated: December 3, 2019.


8 WILLIAM ALSUP
9 UNITED STATES DISTRICT JUDGE
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28